



OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

*Attorneys at Law*

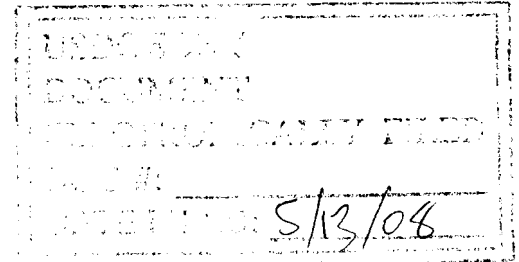
10 Madison Avenue, Suite 402  
Morristown, NJ 07960  
Telephone: 973.656.1600  
Facsimile: 973.656.1611  
www.ogletreedeakins.com

**MEMO ENDORSED**

May 12, 2008

**VIA OVERNIGHT U.S. MAIL**

Honorable Richard M. Berman, U.S.D.J.  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Courtroom 14A  
New York, New York 10007



**Re: Angel Vargas, et al. v. Midtown Air Condition and Ventilation, Ltd.  
Case No. 1:07-cv-03343-RMB**

Dear Judge Berman:

This firm represents the defendant, Midtown Air Conditioning and Ventilation, Ltd ("Defendant"). Earlier today, Defendant received ECF copies of a portion of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment. We write to respectfully request that the Court disregard Plaintiff's opposition or, in the alternative, grant Defendant until June 9, 2008 to file its reply brief.

The opposition to Defendant's motion was due on April 28, 2008. As Your Honor may recall, the Court selected this deadline at a conference convened on April 15, 2008 because Plaintiffs had missed the original April 4, 2008 deadline. In addition to issuing an oral Order from the Bench, the Court also issued a written Minute Order establishing a new deadline of April 28, 2008.

Despite the Court's leniency in extending Plaintiffs' deadline to oppose Defendant's motion, they have filed their opposition two weeks late, without consulting with counsel or the Court as to the reason for the delay. In circumstances such as this, it is well within the Court's discretion to disregard Plaintiffs' opposition in its entirety.

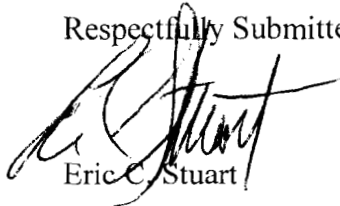
If the Court declines to disregard Plaintiffs' opposition, Defendant respectfully requests until June 9, 2008 to prepare its reply. The full period requested should be granted because Defendant has not yet received any of the exhibits submitted in support of plaintiffs' opposition. Thus, at

Honorable Richard M. Berman, U.S.D.J.  
May 12, 2008  
Page 2

the present time, Defendant does not have the ability to review the exhibits attached to counsel's affirmation in opposition.

Thank you for your continued consideration of this matter.

Respectfully Submitted,



Eric C. Stuart

Enclosures

cc: Ambrose Wotorson, Esq. (by facsimile and U.S. mail)

Extension granted to 6/9/08 to reply.	
SO ORDERED: Date: 5/13/08	Richard A. Berman Richard M. Berman, U.S.D.J.